

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

S-2661

DATE OF INTRODUCTION:

November 8, 2001

SPONSOR:

Senator Allen
Senator Bark

DATE OF RECOMMENDATION:

December 18, 2001

IDENTICAL BILL:

COMMITTEE:

Senate Education Committee

DESCRIPTION:

The Bill authorizes the creation of a sales tax exemption for purchases of teaching materials including professional development materials for teachers or teaching staff of preschool through grade 12 schools in New Jersey.

ANALYSIS:

This Bill is proposed to mitigate the financial burden of teachers who use their personal funds to make purchases for classroom use without school reimbursement.

This exemption benefits a specialized group and does not promote horizontal equity. Horizontal equity mandates that sales tax legislation be broadly based and taxes similar transactions, persons or things in a similar manner. Tax treatment should be uniform from one taxpayer to another. This proposal creates a disparity between school teachers/staff and taxpayers in other professions not qualifying for the exemption.

The creation of an exemption based on a taxpayer's employment could encourage other occupations to pursue the same exemption from purchases for their work and professional development.

Generally, schools themselves are exempt from New Jersey sales tax on purchases made with school funds under N.J.S.A. 54:32B-9. The New Jersey Sales and Use Tax Act also provides a sales and use tax exemption for school textbooks. The financial burden on teachers would be more appropriately handled by legislation mandating school supply allowances.

The Bill's broad language leads itself to many administrative and enforcement problems. The Bill defines "qualified teaching materials" as "books, supplies, computer equipment and other supplementary materials for use in the course of teaching or professional

development.” This definition allows for subjective interpretation and may result in fraudulent purchases.

The Bill states that “public or private school teacher or teaching staff member of preschool through grade 12 in New Jersey” qualifies for the exemption. This language does not further define “teaching staff member[s]” or further identify who qualifies for this exemption. Enforcement and administrative problems arise because of the inherent difficulty in determining whether a purchaser and the purchase are qualified for the exemption.

RECOMMENDATION:

The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 7

COMMISSION MEMBERS ABSTAINING: 0

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